

2011 HOUSE ENERGY AND NATURAL RESOURCES

HB 1335

2011 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources Committee Pioneer Room, State Capitol

HB1335
01/28/2011
13656

☐ Conference Committee

Committee Clerk Signature

J. Mineth

Minutes:

1 "attached testimony."

Rep. Porter: we will open the hearing on HB 1335.

Rep. Hofstad: I am the representative from district 15. It is the heart of Devils Lake Basin. The issue is very important to the flood fight that is ongoing in the basin for the eighteen years. Water transfer is the one element of the fight that we have some control over. The lake is continuing to go up, it is exceeding all forecasts we have a 70% chance that this lake will raise 3 feet again this year.

It is important for the entire state to manage this water. This bill before you gives us some latitude in managing that body of water. The fight is almost over for Devils Lake. We are to the point where this lake is full, it is important for the rest of the state that we began to manage this lake as a dam and began to draw that water down so that we have some storage capacity.

The State Health Department will be here to answer the technical questions.

Rep. Porter: Are there any questions for Rep. Hofstad? Is there further testimony for the support of HB 1335?

David Glatt: Chief of the environmental health section from North Dakota Department of Health. I am here today in support of HB 1335. This addresses water transfers used to control flooding. In recent years above average precipitation has resulted in flooding and saturating conditions in almost every region of the state. Excessive water in the lakes and on land surfaces has resulted in the need to move water from one water body to another to protect infrastructure and to alleviate flood water and environmental social and economic impacts. The movement of water from one water body to another is referred to as a water transfer.

Determinations by the U.S. Environmental Protection Agency have provided states flexibility regarding the operation of water transfers under the clean water act. The state law specifically NDCC Chapter 6128 provides no such flexibility. Chapter 6128 requires persons operating water transfers needed to control flooding to comply with established water quality standards and subjects them to enforcement action if they violate the standards. In some cases strict compliance with the standards may be difficult if not impossible and may preclude the operation of flood control activities that would benefit the

public. In order to control the operation to control activities the Department of Health has proposed the amendment to state laws indentified in HB 1335.

The important note is that amendment will allow operation of flood control activities under certain limitations and will exempt the operators from enforcement action and citizen suits for exceeding the water quality standards. Water transfers including flood control activities are considered none point sources and are not required to obtain N.P.D.S. permits. This language makes clear that HB 1335 will not conflict with the clean water act. The department also purposes the following amendments to make HB 1335 consistent with current with the current state laws. (see attachment 1)

Rep. Porter: Are there any questions for Mr. Glatt ?

Rep. Kelsh: What is an example of this type of pollutants introduced?

David Glatt: The way the law would apply is that if you transfer from Devils Lake to the Sheyenne River you can't use that water as it is being transferred for commercial industrial municipal use or altered in any way. Secondly what that applies to is that thru pumping you can't add anything to it.

Rep. Hanson: Do you have jurisdiction (no audio)

David Glatt: We have jurisdiction for waters of the state within the state boundaries. As we discharge water it may impact another entity, we have to deal with that entity as far as what there regulations would be. We have a shared river with Minnesota. The Red River anything we do we have to take in the consideration, in how that would impact there use of the river as well.

Rep. Nelson: Water to water transfers in the state don't require such a permit under the clean water act due to their rules. Do we have state rules on top of the clean water act rules that say a water to water transfer within the state requires a National Pollution Discharge Permit?

David Glatt: Under state law any person that discharges or moves water has to comply with the standards. We only require those entities that are required under federal law.

Rep. Nelson: Doesn't the federal law say that water to water transfers do not require a National Pollution Discharge Permit? This one only exempts those to control flooding.

David Glatt: That is how I read it. The state law requires that anyone that moves water has to comply with the standards.

Rep. Porter: Are there any further questions for Mr. Glatt? Further testimony is support of HB 1335. Is there any opposition to HB 1335? We will close the hearing on HB 1335.

2011 HOUSE STANDING COMMITTEE MINUTES

House Energy and Natural Resources Committee
Pioneer Room, State Capitol

HB 1335
02/03/2011
13925

☐ Conference Committee

Committee Clerk Signature

J. Minetti

Minutes:

Rep. Porter: we will open HB 1335. Is there any discussion? Voice vote taken, motion carries.

Rep. DeKrey: I move a do pass as amended on HB 1335.

Rep. Hofstad: Second.

Rep. Porter: Is there any discussion?

Yes 15 No 0 Absent: 0 Carrier Rep. Nelson

February 3, 2011

VR
2/3/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1335

Page 1, line 2, replace "water-to-water" with "water"

Page 1, line 7, replace "**Water-to-water**" with "**Water**"

Page 1, line 9, replace "water-to-water" with "water"

Page 1, line 10, replace "water-to-water" with "water"

Page 1, line 14, replace "water-to-water" with "water"

Page 1, line 15, replace "United States" with "state"

Page 1, line 16, remove "This section does not apply to"

Page 1, remove line 17

Page 1, line 18, after "3." insert "The exemption in subsection 1 does not apply to pollutants introduced by the water transfer activity itself to the water being transferred.

4."

Page 1, line 18, replace "water-to-water" with "water"

Renumber accordingly

Date: 2-3-11
Roll Call Vote #: 1335 #1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. _____

House House Energy and Natural Resources Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
to move the health care amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep DeKrey Seconded By Rep Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep. Hanson		
Vice Chairman Damschen			Rep. Hunsakor		
Rep. Brabandt			Rep. Kelsh		
Rep. Clark			Rep. Nelson		
Rep. DeKrey					
Rep. Hofstad					
Rep. Kasper					
Rep. Keiser					
Rep. Kreun					
Rep. Nathe					
Rep. Anderson					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

*voice vote taken
motion carries*

Date: 2-3-11
Roll Call Vote #: 1335 #2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. _____

House House Energy and Natural Resources Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep De Krey Seconded By Rep Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	✓		Rep. Hanson	✓	
Vice Chairman Damschen	✓		Rep. Hunsakor	✓	
Rep. Brabandt	✓		Rep. Kelsh	✓	
Rep. Clark	✓		Rep. Nelson	✓	
Rep. DeKrey	✓				
Rep. Hofstad	✓				
Rep. Kasper	✓				
Rep. Keiser	✓				
Rep. Kreun	✓				
Rep. Nathe	✓				
Rep. Anderson	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment Rep Nelson

If the vote is on an amendment, briefly indicate intent:

22-014

REPORT OF STANDING COMMITTEE

HB 1335: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1335 was placed
on the Sixth order on the calendar.

Page 1, line 2, replace "water-to-water" with "water"

Page 1, line 7, replace "Water-to-water" with "Water"

Page 1, line 9, replace "water-to-water" with "water"

Page 1, line 10, replace "water-to-water" with "water"

Page 1, line 14, replace "water-to-water" with "water"

Page 1, line 15, replace "United States" with "state"

Page 1, line 16, remove "This section does not apply to"

Page 1, remove line 17

Page 1, line 18, after "3." insert "The exemption in subsection 1 does not apply to pollutants introduced by the water transfer activity itself to the water being transferred."

4."

Page 1, line 18, replace "water-to-water" with "water"

Renumber accordingly

2011 SENATE NATURAL RESOURCES

HB 1335

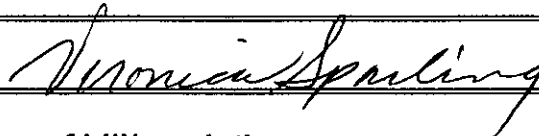
2011 SENATE STANDING COMMITTEE MINUTES

Senate Natural Resources Committee Fort Lincoln Room, State Capitol

HB 1335
March 11, 2011
Job # 15292

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to exemptions from enforcement actions for water transfers used to control flooding; and to declare an emergency

Minutes:

Testimony Attached

Chairman Lyson opened the hearing on HB 1335.

Representative Curt Hofstad, District 15, introduced the bill. HB 1335 deals with exemptions from enforcement actions on water to water transfers when used in flood control. The Clean Water Act is the regulating law that is in place. Recently the EPA determined that states have some flexibility in water to water transfers. HB 1335 deals with that flexibility when water is transferred to control flooding.

Dennis Fewless, Director of the Division of Water Quality for the ND Dept of Health, presented written testimony in support of HB 1335. See Attachment #1.

Opposition: None

Senator Hogue: question for Mr. Fewless: Are there any private holders of these water transfer permits? Or is it all political subdivisions and counties and cities?

Dennis Fewless: There are none held by a private facility at this time.

Senator Hogue: On line 8 of the bill it says "an action may not be brought ... against an owner or operator of a water transfer used to control flooding....". I chapter 32-40 it says political subdivisions cannot be held liable for a violation of that chapter. I'm wondering what that particular provision of this bill is accomplishing if there is already no liability for political subdivisions. I was thinking are there some private holders out there that...

Dennis Fewless: No, there are no private or public holders of water to water transfer permits at this time.

Senator Lyson: Is there a possibility that there could be a private holder?

Dennis Fewless: If the intent of this bill is accomplished then they would not need a permit for that water to water transfer and then they would not be held liable.

Senator Burckhard: You are concerned about the negative impact on aquatic life. How would that fit in with a crisis situation in Devils Lake? How much concern can you show for aquatic life when you are working on relief efforts?

Dennis Fewless: It is a balancing act. If there is a catastrophic event going out of Tula Coulee you would have no control of that.

Senator Hogue: Does the State Engineer have a position on this bill?

Bruce Engelhardt, Director of Water Development for the North Dakota State Water Commission, was asked to come to the podium. Certainly the State Water Commission and the State Engineer support HB 1335.

Chairman Lyson closed the hearing on HB 1335.

Senator Hogue: Do Pass motion.

Senator Burckhard: Second

Roll Call Vote: 6-0-1

Carrier: Senator Hogue

Date: 3-11
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1335

Senate Natural Resources Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Hogue Seconded By Burckhard

Senators	Yes	No	Senators	Yes	No
Chairman Lyson	✓		Senator Schneider	✓	
Vice-Chair Hogue	✓		Senator Triplett		
Senator Burckhard	✓				
Senator Freborg	✓				
Senator Uglem	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Hogue

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1335, as engrossed: Natural Resources Committee (Sen. Lyson, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
Engrossed HB 1335 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1335

Testimony
House Bill 1335
Energy and Natural Resources Committee
January 28, 2011, 9:30 a.m.
North Dakota Department of Health

Good morning Chairman Porter and members of the Energy and Natural Resources Committee. My name is L. David Glatt, and I am Chief of the Environmental Health Section of the North Dakota Department of Health. I am here today to testify in support of House Bill 1335, which addresses water transfers used to control flooding.

In recent years, above average precipitation has resulted in flooding and saturated conditions in almost every region of the state. Excessive water on the land surface and in lakes has resulted in the need to move water from one water body to another to protect infrastructure and to alleviate the flood waters' environmental, social and economic impacts. This movement of water from one water body to another is referred to as a "water transfer."

Although recent determinations by the U.S. Environmental Protection Agency have provided states flexibility regarding the operation of water transfers under the Clean Water Act, currently state law, specifically NDCC chapter 61-28, provides no such flexibility. Chapter 61-28 requires persons operating water transfers needed to control flooding to comply with established water quality standards and subjects them to enforcement action if they violate the standards. In some cases, strict compliance with the standards may be difficult, if not impossible, and may preclude the operation of flood control activities that would benefit the public.

In order to allow the operation of flood control activities, the Department of Health has proposed the amendment to state law as identified in HB 1335. Of important note, the amendment will allow operation of flood control activities under certain limitations and will exempt the operators from enforcement action and citizen suits for exceeding the state's water quality standards. The following are elements of the proposed law:

- a. The water transfer does not require a national pollutant discharge elimination system permit.

Under the Clean Water Act, a national pollutant discharge elimination system permit – or NPDES permit – is typically required for point source discharges such as municipal or industrial wastewater treatment facilities. Water transfers, including typical flood control activities, are considered nonpoint sources and are not required to obtain NPDES permits. This language makes clear that House Bill 1335 will not conflict with the Clean Water Act.

- b. Complies with the conditions in the state's water quality standards established to protect aquatic life.

Some state waters when comingled can have a negative impact on aquatic life. This language requires that flood control activities be conducted in a manner that ensures the protection of aquatic life in downstream waters. This protects the interests of downstream users, while at the same time giving flood-impacted areas the relief they need.

The Department also proposes the following amendments to make the House Bill 1335 consistent with current state laws:

- Line 9 Delete "-to-water"
- Line 10 Delete "-to-water"
- Line 14 Delete "-to-water"
- Line 15 Delete "United States" Add in its place "state"
- Line 18 Delete "-to-water"
- Line 16-17 Delete last sentence

Start new section: 3. "The exemption in subsection 1 does not apply to pollutants introduced by the water transfer activity itself to the water being transferred."

- Line 18 Delete 3. Add 4.

This completes my testimony. I am happy to answer any questions you may have.

Testimony
House Bill 1335
Senate Natural Resources Committee
Friday, March 11, 2011, 9 a.m.
North Dakota Department of Health

Good morning Chairman Lyson and members of the Senate Natural Resources Committee. My name is Dennis Fewless, and I am the director of the Division of Water Quality for the North Dakota Department of Health. I am here today to testify in support of House Bill 1335, which addresses water transfers used to control flooding.

In recent years, above average precipitation has resulted in flooding and saturated conditions in almost every region of the state. Excessive water on the land surface and in lakes has resulted in the need to move water from one water body to another to protect infrastructure and to alleviate the flood waters' environmental, social and economic impacts. This movement of water from one water body to another is referred to as a "water transfer."

Although recent determinations by the U.S. Environmental Protection Agency have provided states flexibility regarding the operation of water transfers under the Clean Water Act, currently state law, specifically NDCC chapter 61-28, provides no such flexibility. Chapter 61-28 requires persons operating water transfers needed to control flooding to comply with established water quality standards and subjects them to enforcement action if they violate the standards. In some cases, strict compliance with the standards may be difficult, if not impossible, and may preclude the operation of flood control activities that would benefit the public.

In order to allow the operation of flood control activities, the Department of Health has proposed the amendment to state law as identified in HB 1335. Of important note, the amendment will allow operation of flood control activities under certain limitations and will exempt the operators from enforcement action and citizen suits for exceeding the state's water quality standards. The following are elements of the proposed law relating to a water transfer:

- a. Does not require a national pollutant discharge elimination system permit.

Under the Clean Water Act, a national pollutant discharge elimination system permit – or NPDES permit – is typically required for point source discharges such as municipal or industrial wastewater treatment facilities. Water transfers, including typical flood control activities, are considered nonpoint sources and are not required to obtain NPDES permits. This language makes clear that House Bill 1335 will not conflict with the Clean Water Act.

- b. Complies with the conditions in the state's water quality standards established to protect aquatic life.

Some state waters when comingled can have a negative impact on aquatic life. This language requires that flood control activities be conducted in a manner that ensures the protection of aquatic life in downstream waters. This protects the interests of downstream users, while at the same time giving flood-impacted areas the relief they need.

This completes my testimony. I am happy to answer any questions you may have.

February 03, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1335

Page 1, line 9, remove "-to-water"

Page 1, line 10, remove "-to-water"

Page 1, line 14, remove "-to-water"

Page 1, line 15, replace "United States" with "state"

Page 1, line 16, remove "This section does not apply to"

Page 1, remove line 17

Page 1, line 18, after the underscored period insert "The exemption in subsection 1 does not apply to pollutants introduced by the water transfer activity itself to the water being transferred. 4."

Page 1, line 18, remove "-to-water"

Renumber accordingly

HEALTH POLICY prescriptions

Blue-Sky Thinking on Health Reform: An Interstate Compact for Health Insurance

By John R. Graham

Medicare cuts, federal control of medical practice, reduced incentives to invest in medical innovation, and general economic sluggishness; such are the wages of Obamacare, which also conscripts the states to do much of its dirty work. It dramatically expands Medicaid, such that 16 million to 18 million Americans will become dependent on this welfare program. State Medicaid programs sentence low-income Americans to worse access to medical care than if they had private health insurance.¹ Obamacare further encourages states to institute so-called "exchanges" that will limit residents' choice of health insurance to policies determined by politicians and bureaucrats. These exchanges will be significantly more expensive than advertised by the Administration.²

Last November's elections provided clear evidence that the majority of people reject Obamacare.³ Many state offices were won by candidates who oppose the federal takeover of access to medical care. As described in a previous publication, the states, if they haven't done so already, can launch a number of initiatives to help deconstruct Obamacare.⁴ Further, a number of important reforms that lie unequivocally within states' sovereignty have little or nothing to do with Obamacare.

Medical-malpractice reform, product-liability reform, increasing the scope of practice of allied health professionals, and improving choice and competition amongst hospitals by relieving or repealing Certificate-of-Need (CON) laws, are some of the changes that states should advance notwithstanding the death throes of Obamacare over the next two years. Indeed, November's electoral wave might

Key Points:

- Health insurance is the only line of insurance regulated by the federal government, but federal control has created and deepened the health crisis.
- Obamacare attempts to conscript states to do the dirty work of limiting people's choice of health benefits.
- States have ensured portability and competition in other lines of insurance through an "interstate compact," a treaty of sorts between the states defined by the U.S. Constitution.
- Including health insurance in an interstate compact would effectively demonstrate that states are ready, willing, and able to regulate portable, individually owned, health insurance.

provide unprecedented opportunities to satisfy pent-up demand for such reforms in many states. For governors and legislators seeking to prioritize their efforts, the *U.S. Index of Health Ownership* indicates which reforms are most critical in each state.⁵

But wait: There's more! States can also explore ways of demonstrating that *there is no need for the federal government to be in the business of health insurance at all*. One tool is the "interstate compact." A compact is treaty of sorts between two or more states, by which each state voluntarily gives up sovereignty to the compact. The U.S. Constitution (Article 1, section 10) addresses states' power to enter compacts: "No State shall, without the consent of Congress. . . enter into any Agreement or Compact with another State. . ."

Ted Cruz and Mario Loyola, lawyers at the Texas Public Policy Foundation, have recently breathed new life into the idea that states can use compacts to roll back federal overreach. When Congress consents to them, interstate compacts actually become federal law, according to Cruz and Loyola. However, courts have also held that consent can be inferred from Congress' acquiescence to a compact. Because they bind the states, courts have found that interstate compacts trump conflicting statutes passed by the member states, as long as the states belong to the compact in question.⁶

One of the goals of effective health reform is health insurance that is owned by the individual and portable from job to job and state to state. For more than half a century, Congress has failed to correct the flaw in the Internal Revenue Code that discriminates against such health insurance, and given employers monopoly control of our health dollars. Although unified in opposition to Obamacare, Congressional Republicans have never exerted a significant effort to fix this deeper problem. Indeed, they *reinforced* the status quo in 1996 when they collaborated with President Clinton and Democrats in Congress to pass the Health Insurance Portability and Accountability Act (HIPAA), the federal government's first intrusion into the regulation of private health insurance.⁷

Facing decades of congressional failure, it is high time for states to seize the initiative, and begin discussing an interstate compact for health insurance. Although the Supreme Court decided (in 1944) that insurance is subject to congressional authority under the Constitution's interstate commerce clause, Congress responded by declining to exercise this authority and leaving insurance regulation to the states. Over the decades, states have managed successfully to deal with crises in all lines of insurance.⁸ The federal government's abandonment of the field has been successful: A presidential candidate campaigning on solving a national "crisis" in auto insurance would be unimaginable, even ridiculous. Unfortunately, Congressional control of health insurance has only deepened the health crisis.

Nevertheless, an effective interstate compact for health insurance faces a couple of obstacles. First, while there are examples of compacts passed without explicit Congressional approval, none is established deliberately to provoke a hostile response from the federal government. Such would be the outcome of an interstate compact attempted while Obamacare is still the law of the land. Therefore, nobody should be supremely confident that federal courts would let such a compact survive a challenge by the Administration.⁹

A second obstacle could arise from the complexity of building a new compact for a single line of insurance from scratch. Indeed, doing so reinforces the flawed notion that health insurance should be governed differently than other lines of insurance. Health insurance is already treated so differently than other lines of insurance that it is not really "insurance" at all. True insurance is designed to indemnify the insured financially for rare, unpredictable, catastrophically expensive events. Instead, federal laws motivate us to buy pre-paid health plans that launder almost all our health dollars through insurers' claims-processing bureaucracies, increasing administrative costs but adding no value.

This second obstacle might be overcome by adding health insurance to the interstate compact that *already exists* for other lines of insurance: The Interstate Insurance Product Regulation Commission (IIPRC). According to the IIPRC:

The Compact enhances the efficiency and effectiveness of the way insurance products are filed, reviewed and approved allowing consumers to have faster access to competitive insurance products in an ever-changing global marketplace. The Compact promotes uniformity through application of national product standards embedded with strong consumer protections.

The Compact established a multi-state public entity, the Interstate Insurance Product Regulation Commission (IIPRC) which serves as an instrumentality of the Member States. The IIPRC serves as a central point of electronic filing for certain insurance products, including life insurance, annuities, disability income and long-term care insurance to develop uniform product standards, affording a high level of protection to purchasers of asset protection insurance products.¹⁰

The advantages of enlarging this compact to include health insurance are easily enumerated. First, it exists. The IIPRC enjoys solidly written legislative language; and committees for audit, finance, product standards, rulemaking, and other critical responsibilities for a successful compact. Insurers file their forms and reports with the compact, after which they can conduct business in all the compacting states without further fuss or bother. Second, all of this information is freely available at its website, which bears the convenient URL of www.insurancecompact.org.

Second, state legislators and other interested parties can quickly educate themselves by contacting officials employed by the compact who can assist and advise. Third, to the degree that the IIPRC would be *unable* to enlarge itself to accommodate health insurance, this would serve further to expose the absurdity of federal laws governing health insurance. Such exposure would increase popular demand for health reform that reduces, rather than increases, federal power.

Benign forces conspired to drive states to enter into an interstate insurance compact for a simple reason: Most insurance is the property of individuals, not our employers. People need policies they can keep when they move from state to state. Nobody who buys life insurance in Florida, and then moves to California a few years later, worries for one minute that he will lose his coverage because he has left the state in which he bought the policy. Life insurers would not sell many policies if that were to happen. The IIPRC facilitates interstate portability.

Enlarging the compact would demonstrate that states are ready, willing, and able to regulate individually owned and portable health insurance. Rather than wasting scarce legislative time trying to find the least harmful way of "implementing" Obamacare, state politicians should invest in reforms that will survive long after Obamacare is relegated to history's dustbin. Including health insurance in an interstate compact would be such a reform.

ENDNOTES

- 1 John R. Graham, "Government Greed, Not Human Need, Drives the Growth of Medicaid," *Health Policy Prescriptions*, vol. 8, no. 8 (August 2010).
- 2 John R. Graham, "Are Your State Politicians Serious About Defeating Obamacare? A 'Litmus Test,'" *Capital Ideas*, vol. 16, no. 41 (December 1, 2010); John R. Graham, "Should Your State Establish an Obamacare Health Insurance Exchange?" *Health Policy Prescriptions*, vol. 8, no. 10 (October 2010).
- 3 Jeffrey H. Anderson, "Economy Isn't the Key Factor in All Elections," *Investors Business Daily* November 24, 2010. Available at <http://tinyurl.com/35csfue>.
- 4 John R. Graham, "Election Gives States Momentum to Defeat Obamacare," *Capital Ideas*, vol. 16, no. 38 (November 3, 2010).
- 5 John R. Graham, *U.S. Index of Health Ownership*, 3rd edition (San Francisco, CA: Pacific Research Institute, July 2009).
- 6 Ted Cruz and Mario Loyola, *Shield of Federalism: Interstate Compacts in Our Constitution* (Austin, TX: Texas Public Policy Foundation, December 2010).
- 7 John R. Graham, "Repeal and Replace, But With What?" *Health Policy Prescriptions*, vol. 8, no. 4 (April 2010).
- 8 John R. Graham, "Popular But Pointless: Subjecting Health Insurers to Federal Antitrust Laws Would Avoid, Not Achieve, Reform," *Health Policy Prescriptions*, vol. 8, no. 2 (February 2010).
- 9 Robert Moffit (Heritage Foundation), presentation to the American Legislative Exchange Council's States and Nations Policy Summit (Washington, DC, December 3, 2010).
- 10 IIPRC, *About the IIPRC* (Washington, DC: Interstate Insurance Product Regulation Commission, 2010). Available at <http://www.insurancecompact.org/about.htm> as of December 9.